



General Assembly

January Session, 2007

***Raised Bill No. 7368***

LCO No. 5467

\*05467\_\_\_\_\_CE\_\*

Referred to Committee on Commerce

Introduced by:  
(CE)

***AN ACT CONCERNING BROWNFIELDS REMEDIATION AND DEVELOPMENT.***

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Subsection (e) of section 22a-134a of the general statutes is  
2 repealed and the following is substituted in lieu thereof (*Effective July*  
3 *1, 2007*):

4 (e) (1) No later than thirty days after receipt of a Form III or Form  
5 IV, the commissioner shall notify the certifying party whether the form  
6 is complete or incomplete. Within forty-five days of receipt of a  
7 complete Form III or IV, the commissioner shall notify the certifying  
8 party in writing whether review and approval of the remediation by  
9 the commissioner will be required, or whether a licensed  
10 environmental professional may verify that the investigation has been  
11 performed in accordance with prevailing standards and guidelines and  
12 that the remediation has been performed in accordance with the  
13 remediation standards. Any person who submitted a Form III to the  
14 commissioner prior to October 1, 1995, may submit an environmental  
15 condition assessment form to the commissioner. The commissioner  
16 shall, within forty-five days of receipt of such form, notify the

17 certifying party whether approval of the remediation by the  
18 commissioner will be required or whether a licensed environmental  
19 professional may verify that the remediation has been performed in  
20 accordance with the remediation standards.

21 (2) (A) When a licensed environmental professional verifies that the  
22 remediation has been performed in accordance with the remediation  
23 standards, such verifications shall be deemed approved by the  
24 commissioner unless, within twelve months of such verification, the  
25 commissioner determines, in the commissioner's sole discretion, that  
26 an audit of such verification or remedial action is necessary to assess  
27 whether remedial action beyond that indicated in such verification is  
28 necessary for the protection of human health or the environment. Such  
29 an audit shall be completed within twenty-four months of the  
30 submittal of the verification. At the completion of the audit, the  
31 commissioner shall approve the verification, disapprove the  
32 verification or request additional information from the party  
33 submitting the verification.

34 (B) If the commissioner requests additional information pursuant to  
35 subparagraph (A) of this subdivision and such information has not  
36 been provided to the commissioner within ninety days of the deadline  
37 for completing the audit, the commissioner shall extend the period for  
38 completing the audit by up to one hundred eighty days. The  
39 commissioner shall make any such requests for information in writing.  
40 Upon evaluating the additional information, the commissioner shall  
41 approve or disapprove the verification.

42 (C) If the commissioner disapproves the verification pursuant to  
43 either subparagraph (A) or (B) of this subdivision, the commissioner  
44 shall give reasons for such disapproval, in writing, and such certifying  
45 party may appeal such disapproval to the Superior Court pursuant to  
46 section 4-183. Before approving a final verification, the commissioner  
47 may enter into a memorandum of understanding with the certifying  
48 party with regard to any further remedial action or monitoring

49 activities on or at such property that the commissioner deems  
50 necessary for the protection of human health or the environment.

51 (D) The deadlines for the conduct of an audit pursuant to this  
52 subdivision shall not apply to (i) properties for which the department  
53 finds that the submitted verification was obtained through the  
54 submittal of fraudulent information or that intentional  
55 misrepresentations were made to the department in connection with  
56 the submittal of the verification, or (ii) those sites that are currently  
57 subject to an order of the department.

58 Sec. 2. Subsection (g) of section 22a-133v of the general statutes is  
59 repealed and the following is substituted in lieu thereof (*Effective July*  
60 *1, 2007*):

61 (g) The board may conduct investigations concerning the conduct of  
62 any licensed environmental professional. The commissioner may  
63 conduct audits of any actions authorized by law to be performed by a  
64 licensed environmental professional. The board shall authorize the  
65 commissioner to issue a letter of reprimand, impose a fine or suspend  
66 or revoke [or suspend] the license of any environmental professional  
67 or to deny an application for such licensure if the board, after  
68 providing such professional with notice and an opportunity to be  
69 heard concerning such letter of reprimand, fine or suspension,  
70 revocation [, suspension] or denial, finds that such professional has  
71 submitted false or misleading information to the board or has engaged  
72 in professional misconduct including, without limitation, knowingly  
73 or recklessly making a false verification of a remediation under section  
74 22a-134a, or violating any provision of this section or regulations  
75 adopted hereunder. The board shall make available to the public a list  
76 of any letters of reprimand, fines, license suspensions or license  
77 revocations. Any fine imposed under this subsection shall not exceed  
78 ten thousand dollars for first offenses and twenty thousand dollars for  
79 subsequent offenses.

80 Sec. 3. Subsection (d) of section 25-68d of the general statutes is

81 repealed and the following is substituted in lieu thereof (*Effective July*  
82 *1, 2007*):

83 (d) Any state agency proposing an activity or critical activity within  
84 or affecting the floodplain may apply to the commissioner for  
85 exemption from the provisions of subsection (b) of this section. Such  
86 application shall include a statement of the reasons why such agency is  
87 unable to comply with said subsection and any other information the  
88 commissioner deems necessary. The commissioner, [at least thirty days  
89 before approving, approving with conditions or denying any such  
90 application, shall publish once in a newspaper having a substantial  
91 circulation in the affected area notice of: (1) The name of the applicant;  
92 (2) the location and nature of the requested exemption; (3) the tentative  
93 decision on the application; and (4) additional information the  
94 commissioner deems necessary to support the decision to approve,  
95 approve with conditions or deny the application. There shall be a  
96 comment period following the public notice during which period  
97 interested persons and municipalities may submit written comments.  
98 After the comment period, the commissioner shall make a final  
99 determination to either approve the application, approve the  
100 application with conditions or deny the application. The commissioner  
101 may hold a public hearing prior to approving, approving with  
102 conditions or denying any application if in the discretion of the  
103 commissioner the public interest will be best served thereby, and the  
104 commissioner shall hold a public hearing upon receipt of a petition  
105 signed by at least twenty-five persons. Notice of such hearing shall be  
106 published at least thirty days before the hearing in a newspaper  
107 having a substantial circulation in the area affected. The commissioner  
108 may approve or approve with conditions such exemption if the  
109 commissioner determines that (A)] after public notice of the  
110 application and an opportunity for a public hearing in accordance with  
111 the provisions of chapter 54, may approve such exemption if the  
112 commissioner determines that (1) the agency has shown that the  
113 activity or critical activity is in the public interest, will not injure  
114 persons or damage property in the area of such activity or critical

115 activity, complies with the provisions of the National Flood Insurance  
 116 Program, and, in the case of a loan or grant, the recipient of the loan or  
 117 grant has been informed that increased flood insurance premiums may  
 118 result from the activity or critical activity, or [(B)] (2) in the case of a  
 119 flood control project, such project meets the criteria of [subparagraph  
 120 (A) of this subdivision] subdivision (1) of this subsection and is more  
 121 cost-effective to the state and municipalities than a project constructed  
 122 to or above the base flood or base flood for a critical activity. An  
 123 activity shall be considered to be in the public interest if it is a  
 124 redevelopment subject to environmental remediation regulations  
 125 adopted pursuant to section 22a-133k and is located in an area  
 126 identified as a regional center, neighborhood conservation area,  
 127 growth area or rural community center in the State Plan of  
 128 Conservation and Development pursuant to chapter 297. Following  
 129 approval for exemption for a flood control project, the commissioner  
 130 shall provide notice of the hazards of a flood greater than the capacity  
 131 of the project design to each member of the legislature whose district  
 132 will be affected by the project and to the following agencies and  
 133 officials in the area to be protected by the project: The planning and  
 134 zoning commission, the inland wetlands agency, the director of civil  
 135 defense, the conservation commission, the fire department, the police  
 136 department, the chief elected official and each member of the  
 137 legislative body, and the regional planning agency. Notice shall be  
 138 given to the general public by publication in a newspaper of general  
 139 circulation in each municipality in the area in which the project is to be  
 140 located.

141 Sec. 4. Section 12-63e of the general statutes is repealed and the  
 142 following is substituted in lieu thereof (*Effective July 1, 2007*):

143 (a) Notwithstanding the provisions of this chapter, when  
 144 determining the value of any property, except residential property, for  
 145 purpose of the assessment for property taxes, the assessors of a  
 146 municipality shall not reduce the value of any property due to any  
 147 polluted or environmentally hazardous condition existing on such

148 property if such condition was caused by the owner of such property  
 149 or if a successor in title to such owner acquired such property after any  
 150 notice of the existence of any such condition was filed on the land  
 151 records in the town where the property is located. For purposes of this  
 152 section, an owner shall be deemed to have caused the polluted or  
 153 environmentally hazardous condition if the Department of  
 154 Environmental Protection, the United States Environmental Protection  
 155 Agency or a court of competent jurisdiction has determined that such  
 156 owner caused such condition or a portion of it.

157 (b) If any owner of such property or if any assessor in title to such  
 158 owner who acquired such property after any notice of the existence of  
 159 any such condition was filed on the land records in the town where the  
 160 property is located (1) enters into an agreement with the department to  
 161 voluntarily remediate such property, (2) files such agreement on the  
 162 land records of the town where such property is located, and (3) has  
 163 developed an approved remedial action plan for the property, the  
 164 provisions of subsection (a) of this section shall not apply. In such  
 165 instances, the assessors of a municipality may reduce the value of any  
 166 property due to any polluted of environmentally hazardous condition  
 167 existing on such property. The assessors of a municipality may also  
 168 raise the value of any property after remediation is completed to take  
 169 into account the removal of such pollution or environmentally  
 170 hazardous condition.

This act shall take effect as follows and shall amend the following sections:		
Section 1	July 1, 2007	22a-134a(e)
Sec. 2	July 1, 2007	22a-133v(g)
Sec. 3	July 1, 2007	25-68d(d)
Sec. 4	July 1, 2007	12-63e

**Statement of Purpose:**

To facilitate brownfield remediation and development in the state.

*[Proposed deletions are enclosed in brackets. Proposed additions are indicated by underline, except that when the entire text of a bill or resolution or a section of a bill or resolution is new, it is not underlined.]*